

Department of Veterans Affairs

Memorandum

Date: January 31, 2017

From: Assistant Inspector General for Investigations (51)

Subj: Administrative Investigation – Alleged Preferential Treatment In Hiring,
Veterans Health Care System of the Ozarks, Fayetteville, AR
(2014-01418-IQ-0005)

To: Director, South Central VA Health Care Network (10N16)

Purpose

The VA Office of Inspector General (OIG) Administrative Investigations Division investigated an allegation that Mr. [REDACTED], Business and Financial Operations Program Manager, Veterans Health Care System of the Ozarks (VHCSO), Fayetteville, AR, gave Mr. [REDACTED], Chief Financial Officer (CFO), VHCSO, a prior VA colleague and friend, an improper preference when he hired him over other well-qualified candidates already working at VHCSO. It was further alleged that Mr. [REDACTED] gave Mr. [REDACTED] “special financial perks” including having VHCSO pay several hundred thousand dollars to purchase Mr. [REDACTED] previous home and giving him a large relocation bonus, all so that Mr. [REDACTED] would be able to move back to Fayetteville and work at VHCSO. In addition, we received an allegation that although Mr. [REDACTED] had limited amounts of sick and annual leave, several times a week he arrived 2 hours late, left 2 hours early, or would not show up for work at all. It was also alleged that Mr. [REDACTED] “covered for Mr. [REDACTED] absences” by granting him compensatory time for supposedly working from home. We referred the alleged time and attendance violation to VA, and we do not discuss it further in this memorandum.

Objective, Scope, and Methodology

To assess the allegations, we interviewed Mr. [REDACTED], Mr. [REDACTED], Dr. [REDACTED], former (retired) VHCSO Director, and other VA employees. We also reviewed personnel email, and telephone records, as well as applicable Federal laws, regulations, and VA policy.

Background

The Fayetteville CFO position became vacant when the previous CFO left in February 2010. According to Mr. [REDACTED], who was both the selecting official as well as the person responsible for supervising the incumbent, the CFO position was vacant from 2010 until

2013 “due to a lack of qualified applicants with the desired VHA-specific experience.” He noted that although the job announcement was extended several times, from February 26, 2010 to June 9, 2010, in hopes of attracting a qualified candidate, the VHCSO was unsuccessful in finding a qualified applicant. In the interim, VHCSO Management elected to use a series of acting CFOs to perform CFO duties. The acting CFOs included an employee detailed from another facility, and two VHCSO employees, Mr. [REDACTED], Supervisory Accountant, and Mr. [REDACTED], Veterans’ Equitable Resource Access Coordinator. Mr. [REDACTED] described himself as having served as acting CFO for about 2 ½ years and personnel records reflected that Mr. [REDACTED] and Mr. [REDACTED] each served in an acting CFO capacity at various times in 2011, 2012, and 2013.

OPM qualification standards for a GS-0505 position required duties that included advising and assisting management officials by giving financial management advice needed to make informed management decisions, establishing organizational goals and objectives, and managing the organization in all respects. It further states that some positions in this series involve professional accounting responsibilities that require professional accounting knowledge. For these positions only, applicants must meet the minimum qualification requirements for the Accounting Series, GS-0510.

After being vacant for 3 years, a vacancy announcement opened from February 21 to March 14, 2013. The announcement reflected that relocation expenses and a recruitment or relocation incentive were “Negotiable.” A three-member panel ranked and rated four top candidates and with Dr. [REDACTED] final approval, Mr. [REDACTED] selected Mr. [REDACTED] for the CFO position, effective June 2, 2013.

Results

Issue: Mr. [REDACTED] Did Not Give Mr. [REDACTED] Preference in Hiring

Standards:

Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority – grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment. 5 U.S.C. § 2302(b)(6). Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this part. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts. 5 C.F.R. § 2635.101(b)(14).

Mr. [REDACTED] and Mr. [REDACTED] Relationship

Some VHCSO employees told us that they thought Mr. [REDACTED] and Mr. [REDACTED] had a close personal relationship, grew up together in the Fayetteville area, went to the same college, played golf together, attended monthly poker games together, tailgated together at college football games, and went out to dinner together. However, the employees making these claims did not have first-hand knowledge to support their characterizations of Mr. [REDACTED] and Mr. [REDACTED] relationship, did not attend any of these events themselves, and ultimately admitted that they did not know the extent of Mr. [REDACTED] and Mr. [REDACTED] relationship outside of work.

Although both Mr. [REDACTED] and Mr. [REDACTED] admitted to being “friends” with one another, the evidence of a close personal friendship was lacking. Mr. [REDACTED] told us that he grew up in Little Rock, AR, about 3 1/2 hours from Fayetteville where Mr. [REDACTED] grew up. Mr. [REDACTED] told us that he and Mr. [REDACTED] became friends in 2003 while he was serving as an intern and Mr. [REDACTED] was serving as a fellow at VHCSO early in their VA careers. For 8 of the next 10 years Mr. [REDACTED] and Mr. [REDACTED] worked at different VA posts. Mr. [REDACTED] stayed in Fayetteville, while Mr. [REDACTED] left to take a position as a budget analyst for Veterans Integrated Service Network (VISN) 16 in Jackson, Mississippi, where he served for 5 years. Mr. [REDACTED] then transferred to take a position as CFO for the VA Medical Center in Little Rock, AR, where he served for the next 2 years. Returning to VISN 16, first as Deputy CFO and later as CFO, Mr. [REDACTED] stayed in Jackson until he returned for the CFO position at Fayetteville in June 2013. At the time he accepted the Fayetteville CFO position, Mr. [REDACTED] had not worked in the Fayetteville area for 8 years. During this 8-year span, Mr. [REDACTED] and Mr. [REDACTED] saw one another twice a year when Mr. [REDACTED] traveled to Fayetteville to conduct budget meetings for VISN 16.

According to Mr. [REDACTED], he did not play golf, with or without Mr. [REDACTED], due to back problems that prevented him from playing the sport. Mr. [REDACTED] also denied attending poker games, with or without Mr. [REDACTED]. Mr. [REDACTED] and another VHCSO employee, who occasionally attended poker games, corroborated Mr. [REDACTED] testimony.

According to Mr. [REDACTED], he and Mr. [REDACTED] attended events outside of VA on less than six occasions before Mr. [REDACTED] started as the Fayetteville CFO, including tailgating parties at college football games, which were attended by other VA employees. He said that after Mr. [REDACTED] began as the Fayetteville CFO, they did not associate with one another outside of work. Mr. [REDACTED] further said that he was “friends” with at least half a dozen coworkers at VHCSO with whom he played golf, and denied that he had a closer relationship with Mr. [REDACTED] than any other co-worker. Similarly, Mr. [REDACTED] told us that the only individual he considered to be a close personal friend at VHCSO was a former retired CFO.

CFO Hiring Effort

Two weeks prior to the CFO announcement being posted on February 7, 2013, Mr. [REDACTED] requested that the former (retired) Associate Medical Center Director, “ad hoc” approve the “CFO position” and that “recruitment and/or relocation” incentives be included on the announcement as negotiable. When asked if he told Mr. [REDACTED] about the position announcement, Mr. [REDACTED] said, “I don’t recall. I may have in conversation said we’re going to have a CFO vacancy.” He said that he did not remember any one-on-one conversation with Mr. [REDACTED] about the vacancy announcement, but he recalled Mr. [REDACTED] being present at several meetings where management announced it.

Dr. [REDACTED] told us that Mr. [REDACTED] had concerns that other employees might prejudice his (Mr. [REDACTED]) and Mr. [REDACTED] pre-existing friendship and recused himself by forming a three-member panel to interview the top candidates. Once the panel completed their scoring, Dr. [REDACTED] said that Mr. [REDACTED] told him that he was not going to do a secondary interview of Mr. [REDACTED] and just go “by the highest score” as he did not want it to appear as if he was giving undue influence. However, while Mr. [REDACTED] recused himself from the interview panel, records reflected that he was involved in other routine aspects of the recruitment process. For example, Mr. [REDACTED] recommended that relocation incentives be included in the job announcement as negotiable, selected the staff that served on the interview panel, chose standard performance-based interview questions, conducted reference checks, and was the selecting official of record.

Records reflected that the panel consisted of VHCSO’s Chief of Safety, Emergency, and Operations Management (SEOM), GS-2003-13; the Chief of Pharmacy Services, GS-0660-15; and the Chief of Social Work Services, GS-0185-13. Although none of the panel members held positions within the financial management job series, GS-0505, Mr. [REDACTED] told us that he considered them subject matter experts, because of “the sheer duty of their jobs” within their organizations. Dr. [REDACTED] told us that while “none of [the panel members] are accountants and none of them are CFOs...they all are integrally involved in managing significant budgets or budgetary items.”

VA policy defines a Subject Matter Expert (SME) as a person with direct knowledge of what is done in the job, what knowledges, skills, abilities and other characteristics (KSAOs) are required, and the general background of persons who are able to do the job successfully. These may include those currently doing the job, recent incumbents, those who supervise others doing the job, and other acknowledged job experts. SMEs participate in the development of job analyses and crediting plans and serve on promotion panels. VA Handbook 5005, Part III, Chapter 2 Internal Placement (Title 5), Paragraph 1. E.

VA policy states that if promotion panels are used to evaluate and rank candidates, the panel members (except the HRM representative) must be subject matter experts (SMEs), one of which must be at least equal in grade to the job to be filled. All must have a clear

understanding of the functions of promotion panel members and clearly understand the crediting plan, the selection procedure being used, and basic human resources management concepts related to qualification and rating and ranking, preferably at the journeyman level...The selecting official will not serve as a panel member unless there are no other qualified SMEs available. Selecting officials who serve as panel members must understand clearly the difference between the two functions and carefully observe merit principles. VA Handbook 5005/63, Part III, Chapter 3, Para. 10c.

OPM's Delegated Examining Operations Handbook defines a subject matter expert as a "person with bona fide expert knowledge about what it takes to do a particular job. First-level supervisors are normally good SMEs. Superior incumbents in the same or very similar positions and other individuals can also be used as SMEs if they have current and thorough knowledge of the job's requirements." https://www.opm.gov/policy-data-oversight/hiring-information/competitive-hiring/deo_handbook.pdf

The Chief, SEOM, told us that he played poker with Dr. [REDACTED], Mr. [REDACTED], and one of the other panel members and that he and Mr. [REDACTED] were friends. He said that he was qualified to participate on the panel, as he had extensive knowledge of the budget processes, since he managed an annual budget of \$6 Million and was instrumental in implementing IFCAP – VA's funding, accounting, and control computer program. The Chief, Pharmacy Services, told us that Mr. [REDACTED] was a good friend of his and that he played poker with Dr. [REDACTED] and the Chief, SEOM. He said that while he was not a budget expert, he managed the second largest budget of the hospital, understood the requirements of the CFO position, and was therefore qualified to participate on the panel.

The Chief, Social Work Services, told us that she was qualified to participate on the panel, because she had 17 years of accounting experience and managed an annual budget of \$4 Million. According to Ms. [REDACTED], former (retired) Chief of Human Resources (HR), who was involved throughout the recruitment process, each of the panel members was a subject matter expert due to their budgetary experience as chiefs of their respective departments. All three members of the panel told us that nobody attempted to influence their decision and that they did not give Mr. [REDACTED] any special consideration. One panel member gave Mr. [REDACTED] a higher overall score than Mr. [REDACTED]. Another told us he knew Mr. [REDACTED] better than Mr. [REDACTED] and thought very highly of Mr. [REDACTED]. The third told us she did not know any of the candidates very well. The final score sheet, with all numbers totaled, reflected that Mr. [REDACTED] had the overall highest score.

Mr. [REDACTED] one of the top candidates interviewed, told us that he was "totally perplexed" by the panel's interview questions. He said that they did not ask him to provide "any type of profile" of himself, there were no "subject matter experts" on the panel, and the questions did not apply to his experience in financial management. He said that he expected a panel of his peers that would ask "probative law questions, or accounting, or budgetary, or some

type of questions germane to the main acumen.” He further said that he felt that the interview was not “commensurate with the level” of the actual position.

The Chief, SEOM, told us that each of the seven questions used during the interviews were germane to the daily functions of a CFO, and they were “intended to be extremely broad to try to get...the candidate to talk about their experiences”...and to give the candidate “as much latitude to describe their tailored experiences and how [they fit] the particular criteria [of the position].” He further explained that “[t]he process has more to do with making sure that its’ broad and fair enough...if you tailored this to a VA specific person, the interview couldn’t even occur for most people.” With respect to the specific allegation that the interview questions failed to cover the area of financial management, the lead panel member responded, “If you want something that has the word finance in it, or budget, question four says, ‘Tell us about a time when you developed budgets or managed financial issues...using relevant and reliable data to influence the... organization’.” While Mr. [REDACTED] may have desired more specific questions on accounting and finance, given his background, there is no evidence that the questions, as drafted, gave any one candidate an unfair advantage over any other candidate.

Dr. [REDACTED] told us that Mr. [REDACTED] was by far the most qualified candidate for the CFO position. He characterized Mr. [REDACTED] as a “rapid riser” in VA, whose skills were recognized early and often. Mr. [REDACTED] was recruited from the Fayetteville VHCSO early in his career to the VISN where he was groomed for an eventual CFO position. Then he was recruited to take a CFO position at Little Rock, a 1A-level facility—rated as such due to having one of the largest levels of volume, patient risk, teaching, and research—that was experiencing budgetary problems, and he “turned the place around.”

Mr. [REDACTED] was then recruited to return to the VISN as CFO where he oversaw a \$2 billion budget, which included the budget of the Fayetteville VHCSO. According to Dr. [REDACTED], Mr. [REDACTED] had insights into how the VISN made budgetary decisions which impacted the VHSCO, which made him an extremely valuable asset. Dr. [REDACTED] likened the selection of Mr. [REDACTED] to getting an “all-star” player on your team, which made him “almost giddy.” Even after Mr. [REDACTED] transferred to the VHCSO, the VISN still requested that he develop their budget for that fiscal year, given his level of expertise.

Relocation Incentives for Mr. [REDACTED]

VA policy states that the HR servicing office will indicate whether relocation allowances are authorized when posting new job announcements. It also states that an employee transferring in the interest of the Government from one agency or official duty station to another for permanent duty, and the commuting distance between the new official duty station and permanent residence has increased by 50 miles or greater from the old official duty station and the permanent residence is eligible for relocation expense allowances. VA Relocation Packages, Volume XIV, Chapter 8, Section 080202 (November 2011).

VA policy further states that facility directors may approve incentives for employees in non-centralized positions under their jurisdiction, and they cannot re-delegate this authority. Relocation incentives may be authorized for employees who must change worksite and physically relocate to a different geographic area when the approving official determines that without the incentive, it would be difficult to fill the position with a high quality candidate, and a relocation incentive may be authorized if, without one, VA is likely to have difficulty recruiting candidates with the competencies required for the position. In determining whether a position is likely to be difficult to fill in the absence of a relocation incentive as well as whether an incentive should be authorized and the incentive amount, identified factors must be considered and fully documented in the request to pay an incentive. Any decision to pay a recruitment or relocation incentive must be made in a fair and equitable manner on a case-by-case basis for each employee. VA Handbook 5007/46 and 5007, Part VI, Chapter 2 (April 22, 2013, and April 15, 2002).

Under VA policy, for positions where relocation benefits have been approved, there are two programs designed to assist employees with the sale of their homes: Appraised Value Offer Program (AVOP) (formerly known as the Guaranteed Home Buy Out), and Buyer Value Option Program (BVOP). Under AVOP, relocating employees are offered a buy-out provision, wherein the Federal government agrees to buy the employee's house at an agreed-at price. Under BVOP, relocating employees agree to use a specified Government contractor to sell their house to a third party. In return, the contractor bears the burden of paying the real estate commission and closing costs which would otherwise be the employee's responsibility. While the granting of AVOP in such cases is discretionary, employees who are not granted the AVOP automatically qualify for BVOP or Direct Reimbursement, at the employee's option. In the case of the CFO vacancy announcement, the AVOP was not offered. VA Financial Policies and Procedures, Relocation Packages, Volume XIV, Chapter 8, Section 080205, Paragraphs D4 and D6.

Email records reflected that Mr. [REDACTED] requested that a relocation incentive be included on the CFO job announcement as negotiable. Records also reflected that his supervisor, the former Associate Medical Center Director, forwarded Mr. [REDACTED] request to Dr. [REDACTED] and suggested, "A relocation bonus up to \$15,000 [was] recommended for the CFO position."

Dr. [REDACTED] told us that he was sure he discussed the vacancy with Mr. [REDACTED], before it was posted, as their budget was "always very tight." He said that they had to watch very carefully any money spent, and if they were going to hire someone "at that level, we would have had to look at whether we could afford to bring the position on." The announcement reflected that relocation expenses were "negotiable" and that a recruitment/relocation incentive was also "negotiable." A VHCSO report reflected that between 2011 and 2014, while Dr. [REDACTED] was the VHCSO Director, 35 employees recruited to the medical center received recruitment and/or relocation incentives. These ranged between \$5,000 and \$35,000, with most going to medical practitioners.

Despite Dr. [REDACTED] stating that the budget was very tight, he approved Mr. [REDACTED] receiving a relocation incentive of 25 percent of his base salary for 3 years for a total of \$69,882. Additionally, records reflected that VA paid \$45,633 to a third party vendor for Mr. [REDACTED] BVOP relocation incentive. This was in addition to the \$53,470 in allowable moving expenses associated with his permanent change of station. In order to accept the CFO position, Mr. [REDACTED] agreed to a reduction in pay grade from a GS-15 to a GS-13. At the conclusion of the recruitment and selection process for the position, an April 1, 2013, email exchange, Subject: CFO, between Mr. [REDACTED], Assistant HR Chief; Dr. [REDACTED]; Mr. [REDACTED]; and Ms. [REDACTED], reflected the following conversation:

- Mr. [REDACTED] to Dr. [REDACTED], Mr. [REDACTED], and Ms. [REDACTED]: You gave your approval on the selection of [REDACTED] for the CFO position...we had also offered a Recruitment/Relocation Incentive as “negotiable” in the vacancy announcement, and we needed to know what \$ amount you were comfortable offering.
- Dr. [REDACTED] to Mr. [REDACTED], Mr. [REDACTED], and Ms. [REDACTED]: [REDACTED]...how much do we have available and how much have we given for a comparable position...and has anything been discussed.
- Mr. [REDACTED] to Dr. [REDACTED], Mr. [REDACTED], and Ms. [REDACTED]: Nothing has been discussed. I can get what is needed to make this happen. This is a vacancy that has been vacant for over 4 years with marginal applicants since [Name] left nearly 4 years ago...Can we see what is requested and then counter?
- Dr. [REDACTED] to Mr. [REDACTED], Mr. [REDACTED], and Ms. [REDACTED]: That would be fine...I do need to know what has been given for other comparable administrative positions.
- Mr. [REDACTED] to Dr. [REDACTED], Mr. [REDACTED], and Ms. [REDACTED]: [Name] and [Name] were given \$20K each, I believe. [Name] was also topped out at a GS-13 step 10. I would argue that the CFO has more complex responsibilities than those two positions due to difficulty in recruitment and vacancy time. Home buyout was also negotiable.
- Ms. [REDACTED] to Mr. [REDACTED], Dr. [REDACTED], and Mr. [REDACTED]: Home buyout was not in the announcement nor was it approved by central office. Recruitment/relocation was in the announcement only.

In addition to a recruitment/relocation incentive being negotiable, the vacancy announcement also offered “Permanent Change of Station (PCS) relocation services” which included the BVOP incentive.

Another email exchange among the same parties, dated April 2–3, 2013, reflected that Mr. [REDACTED] accepted the job offer for the CFO position subject to VA paying for his PCS move from Jackson, MS, and paying him a relocation incentive of 25 percent of

his base salary at the GS-13, step 10, level for 3 years for a total of \$69,882. Dr. [REDACTED] subsequently approved both incentives. Dr. [REDACTED] told us that VHCSO historically had difficulty finding a CFO, the position remained vacant for over 2 years, and the CFO duties had to be performed by existing VHCSO employees. Dr. [REDACTED] further explained that “historically, in the VA as a whole, it’s been very difficult to get chief fiscal officers to come to a facility, especially a facility of our size. I think it’s a level 13 position, and CFO’s, you know, they have a lot of opportunities around the country. And so it’s just very hard to find somebody.”

Ms. [REDACTED] also told us that it was difficult to fill the CFO position at Fayetteville. When the CFO position was announced in 2010, she indicated that the VHCSO received applications from a few candidates that had good experience with accounting but they did not have any VA or federal experience. According to Ms. [REDACTED], “you can’t just walk into some of our [VA] positions off the street.” Ms. [REDACTED] also said that she hired HR people from within and without VA and found that the people with VA experience worked out much better because they were easier to train on systems with which they were already familiar. She said that was why “there was conversation going back and forth that [management] really wanted to have someone that had VA experience.” Ms. [REDACTED] also indicated that the remote location of the Fayetteville VHCSO made it difficult to attract qualified candidates. She said that in her experience many qualified candidates turned down jobs, once they realized where the VHCSO was located, including nurses, doctors, and even potential chiefs of HR.

Conclusion

Mr. [REDACTED] and Mr. [REDACTED] knew one another through the VA for 10 years and developed some level of friendship prior to the recruitment and selection process here at issue. However, both Dr. [REDACTED] and Mr. [REDACTED] agreed to select the candidate who received the highest score from an independent, three-member hiring panel. That hiring panel awarded Mr. [REDACTED] the highest score. There was no evidence that the objectivity or independence of the hiring panel was compromised or that Dr. [REDACTED] and/or Mr. [REDACTED] attempted to influence the decision of the hiring panel in favor of Mr. [REDACTED], or against any other candidate for the CFO position. Without some evidence that Mr. [REDACTED] or Dr. [REDACTED] attempted to influence the decision of the hiring panel in favor of Mr. [REDACTED], a reasonable person, without any stake in the outcome of the hiring process, would not likely conclude that the selection of Mr. [REDACTED] as CFO was the product of preferential hiring and that an appearance of preference was created.

Finally, Mr. [REDACTED] did not approve the relocation incentive and PCS expenses paid to or on behalf of Mr. [REDACTED], as Dr. [REDACTED] approved both expenditures in accordance with VA policy.

A handwritten signature in cursive script, reading "Quentin G. Aucoin".

QUENTIN G. AUCOIN
Assistant Inspector General for
Investigations

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